

Town of Amherst  
Zoning Board of Appeals - Special Permit

*DECISION*

**Applicant:** Yvette Santana and Anna Maria Gijzen

**Date application filed with the Town Clerk:** March 7, 2005

**Nature of request:** Petitioner seeks a Special Permit, under Section 3.321 of the Zoning Bylaw, to add a second dwelling unit to create a two-family house.

**Location of property:** 407 Old Farm Road, (Map 18C, Parcel 28, R-N Zone)

**Legal notice:** Published in the Daily Hampshire Gazette on March 30 and April 6, 2005, and sent to abutters on March 30, 2005.

**Board members:** Tom Simpson, Joan Golowich and Susan Pynchon

**Submissions:**

Prior to the public hearing on April 14, 2005, the applicant submitted the following documents:

- An aerial photograph from the Town of Amherst GIS Browser showing an approximate footprint for the proposed additional dwelling unit, the location of one parking space and the 100 foot setback line from an approximate edge of wetlands;
- A preliminary floor plan showing a one bedroom apartment;
- A projected drawing of a proposed roof line.

Prior to the continuation of the public hearing on May 19, 2005, the applicant submitted the following documents:

- A Management Plan;
- A Site Plan, dated May 10, 2005, showing the delineated edge of wetlands approved by the Conservation Commission, the 50 foot buffer from the wetland flags and the location of the proposed additional unit;
- Architectural plans, dated April 20, 2005, showing the proposed floor plan and elevations of the north, east and west sides of the proposed unit.

The Conservation Commission submitted WPA Form 2 – Determination of Applicability, RFD05-0945, stating that, although the proposed work will take place within the 100-foot buffer zone, the work will not require the filing of a Notice of Intent.

The Fire Department submitted a memorandum, dated May 19, 2005, discussing issues of access, water supply, building, and address.

Marion Hoffman, of 19 The Hollow, an abutter to the site, submitted an email, dated April 14, 2005, supporting the application but requesting that the house remain owner-occupied.

**Site Visit:** April 12, 2005

Board members Tom Simpson, Joan Golowich and Susan Pynchon attended the site visit. They were met by the applicant, Yvette Santana. They made the following observations:

- They viewed the existing single-family house on a well-traveled street in a predominantly single-family neighborhood, located across the street from the Planned Unit Residential Development of Ice Pond Woods and Amherst Fields, a planned community with higher-than-normal density and some two-family condominium homes;
- They viewed the front yard and the side and rear yards and saw the extent of the proposed building site;
- They viewed the existing driveway and garage;
- They saw the flagged wetlands edge and the flagged 50-foot wetlands buffer zone.

**Public Hearing:** April 14, 2005.

At the public hearing, Yvette Santana, the applicant, presented the petition. She gave the Board a letter requesting that her public hearing be continued because of a redesign of the addition. Ms. Santana explained that she would be meeting with her builder soon and that she also had hearing scheduled with the Conservation Commission on April 27<sup>th</sup>. She wished to resolve the wetlands issues and to obtain more developed building plans before the Board considered her application.

Joan Golowich MOVED to continue the public hearing to May 19, 2005. Susan Pynchon SECONDED the motion. The Board VOTED unanimously to continue the hearing to May 19, 2005, at 7:00 p.m.

**Continued Public Hearing** May 19, 2005

At the continued public hearing Ms. Santana again presented the petition. Ms. Santana made the following comments:

- She is planning to build an addition to her home for her parents.
- The new addition will be set back from the road and will be small in comparison to the house.
- It will be located along the side and across the back of the garage.
- There will be access to Yvette's home through the garage.
- The new addition will be on the north and west side of the existing house.
- There will be one bedroom, with an open living room, dining room and kitchen area.
- Her parents would like to have their own kitchen space, separate from that of Ms. Santana and her family.
- The bedroom door and the bathroom door will be wide enough to be accessible for a wheelchair.
- Although there will be one 8" step up to the front door and one step down to the back patio, the rest of the unit will be accessible for a wheelchair.

- The steps at the front door and patio can be fitted with a ramp in the future if the need arises.
- The new unit will be approximately 865 gross square feet.
- There is a two-car garage attached to the main house and there is room for two cars to be parked in the driveway.
- Overall there is parking for four cars on the site.
- The exterior finish of the new unit will match that of the existing house in color and material.

Mark Snow of the Inspection Services Department noted that this is not a supplemental apartment and therefore needs to conform to all dimensional requirements of the Zoning Bylaw. He also stated that the side setback on the west side will need to be verified by a registered land surveyor at the time of construction. The setback requirement is 15 feet from the side property line.

Mr. Snow stated that there needs to be fire separation between the two dwelling units and between the garage and each of the units. There was further discussion of fire-rating requirements.

There was also discussion about access into the garage from each of the dwelling units.

Mr. Simpson stated that he would like the following conditions placed on the permit:

- There shall be no more than two people living in the new apartment.
- The owner shall be responsible for snow removal and lawn mowing.
- Storage for both units shall be available in the attic, the garage and the basement for large items.
- Exterior lighting shall be downcast and shall not shine into neighbors' yards.

Susan Pyncheon MOVED to close the evidentiary portion of the public hearing. Joan Golowich SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

### **Public Meeting**

At the Public Meeting, the Board discussed the application and the conditions which should be imposed on the Special Permit.

### **Findings:**

Under Zoning Bylaw Section 10.38 the Board found that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because the site is located on a well-traveled street, the additional dwelling unit will be small and the proposed use as a dwelling unit is typical of other uses in the neighborhood.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the number of tenants of the new unit will be limited to two, the site will be managed according to the approved management plan and the house will be owner-occupied.

- 10.383 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians because the second dwelling unit will be built according to the plans which have been approved by the Board, and there will be adequate space on the site for the parking of four vehicles, two in the driveway and two in the garage.
- 10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the new unit will be built according to the approved floor plans which show that the rooms and points of egress from the unit are adequate for the use as a dwelling unit, the required number of parking spaces can be accommodated and the site is large enough to provide adequate recreational space.
- 10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because no signs are being proposed and the requirement for two parking spaces per dwelling unit has been met.
- 10.387 and 10.388 – The proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to streets, property or improvements and the proposal ensures adequate space for the off-street loading and unloading of vehicles because the driveway is amply sized to accommodate the four parking spaces required by the Bylaw and sight distances are adequate for safe entry and exit to and from the site.
- 10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the property is connected to the town sewer and the property owner has a contract with a local trucking company for weekly pick up of trash and recyclables.
- 10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, because there is already a substantial amount of landscaping and screening on the site which will remain.
- 10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because the conditions of the permit require that all exterior lighting shall be downcast and shall not shine onto adjacent properties.
- 10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because the new unit will be of a size and design that is compatible with the existing house on the property and other houses in the neighborhood.
- 10.397 – The proposal provides adequate recreational facilities, open space and amenities for the proposed use because the lot is large enough and open and there is ample space for passive and active recreation in the yard.
- 10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

**Zoning Board Decision**

Joan Golowich MOVED to approve the application, with conditions. Susan Pynchon SECONDED the motion.

For all the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit, with conditions, to Yvette Santana and Anna Maria Gijzen, to add a second dwelling unit to create a two-family house, under Section 3.321 of the Zoning Bylaw, at 407 Old Farm Road, (Map 18C, Parcel 28, R-N Zone).

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TOM SIMPSON

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JOAN GOLOWICH

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SUSAN PYNCHON

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2005 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.  
TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2005.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2005  
to the attached list of addresses by \_\_\_\_\_, for the Board.  
NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2005,  
in the Hampshire County Registry of Deeds.

Town of Amherst  
Zoning Board of Appeals

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals, based on the documents approved on May 19, 2005, as listed below:

- Management Plan
- Site Plan ("Existing Conditions"), dated May 10, 2005
- Architectural Plans, Sheets 1, 2 and 3, dated April 20, 2005

hereby grants a Special Permit to Yvette Santana and Anna Maria Gijzen, to add a second dwelling unit to create a two-family house, under Section 3.321 of the Zoning Bylaw, at 407 Old Farm Road, (Map 18C, Parcel 28, R-N Zone) with the following conditions:

1. The house shall be owner-occupied.
2. There shall be no more than two tenants living in the second dwelling unit.
3. One of the two occupants of the second dwelling unit shall be related to the owner.
4. The property shall be managed in accordance with the Management Plan approved on May 19, 2005.
5. The second dwelling unit shall be built in accordance with the plans approved on May 19, 2005.
6. The exterior of the building shall match the existing house in terms of color and materials.
7. The exterior lights shall be downcast and shall not shine on to adjacent properties.
8. Four parking spaces will be provided to serve the two units.
9. A registered land surveyor shall verify the 15 foot side setback from the western property line at the time of construction.
10. Prior to occupancy of the additional dwelling unit the applicant shall obtain a separate address, distinct from the main house, and shall properly display the new address on the new unit.
11. This permit is subject to Section 14, of the Zoning Bylaw, Phased Growth. Development authorization shall be available as of June 2005.
12. This permit shall expire upon change of ownership.

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TOM SIMPSON, Chair  
Amherst Zoning Board of Appeals

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DATE